

Completing Form CAO 10-7: Agreed Modification Stipulation
[REMOVE THESE INSTRUCTION PAGES BEFORE FILING] 2/2005

Talk to an attorney, if possible.

WARNING: When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. Even if you do not hire a lawyer to appear in your case, you may be able to find a lawyer to review your paperwork or give you more information about your rights. Call the Idaho State Bar (208-334-4500) to provide you with the name of an attorney who handles this type of case. Contact the Court Assistance Office for information about resources for low-income people.

YOU WILL BE SIGNING A SWORN STATEMENT THAT YOU HAVE READ THE STIPULATION, KNOW WHAT IT SAYS, AND BELIEVE IT'S TRUE. TO GUARANTEE THE TRUTHFULNESS OF THAT STATEMENT, BE SURE TO READ THE ENTIRE COMPLETED FORM.

Instructions

Fill in the forms by typing or by printing neatly and legibly in black ink. If you are working on a computer, you may delete the optional sections you don't need and renumber the remaining sections, or type in "none" if a section doesn't apply. The documents have a boldface "or" at the start of optional sections. If the section does not contain a boldface "or" it is necessary and you should type in the appropriate information (which might be the word "none"). Always keep a copy of the completed form for your records.

- At the top left-hand corner of page 1, fill in your full legal names, addresses, and telephone numbers as Plaintiff and Defendant, as you were identified in the original divorce or custody case.
- Fill in the county and judicial district in the heading (for example, "IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT IN AND FOR THE COUNTY OF BUTTE") exactly like it is in the Order or Decree you are asking to be changed.
- Fill in the names of the plaintiff and defendant exactly as they appeared in the caption in the original case.

Fill in the case number from the original case. This is not the same as your Department of Health and Welfare Child Support case number.

1. Fill in the name and date of birth for each minor child and the city and state where each child

has lived for the last five years. *Note: If none of the children and no parent still lives in Idaho, the Idaho court may lack authority (“jurisdiction”) to modify custody. In that event you should consult an attorney to determine whether there may be other grounds for jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act, Section 32-11-203, I.C.*

2. Write in the city, county and state where Mother lives and the city, county and state where Father lives.

3. **UCCJEA Jurisdiction.** You are required to inform the court if there have been any other cases involving your child/ren in any other court or if there are any other people claiming custody or visitation rights with the child/ren.

In paragraphs 3a, b, c and d, provide all requested information or write “none”.

4. Before asking the court to modify (change) the order now in effect, you must provide information to the court explaining what significant (“substantial and material” for child support) change(s) in circumstances make the modification necessary. Describe the change(s) that have occurred since the most recent order.

5. **Custody.** Check the first box if there will be no change.

- Check the second box if you are seeking to have the previous order modified with respect to custody (or “Parenting Plan”) **and**
- Write in the date of the most recent Custody Order. *Note: Consult the court file if you are unsure about the date of the most recent order. There may be different orders if you have changed either support or custody before.*

Legal Custody. *“Joint legal custody” means each parent has decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. The court will give joint legal custody to both parents unless you can prove it would not be in the best interest of the minor child/ren for one parent to have decision-making rights.*

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change and both parents are fit persons to have decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. **or**
- Check the third box if you are declaring that only one parent should have legal custody of the child/ren, **and**
- Write in the name of the parent who should be given sole legal custody **and**
- State why the other parent should NOT be allowed to have legal custody.

Physical Custody. *“Joint physical custody” means each parent has significant periods of time when a child lives with or is under his/her care and supervision. Joint physical custody assures the child/ren have frequent and continuing contact with both parents but does not necessarily mean the child spends exactly the same amount of time with each parent. The court will give the parents joint physical custody unless you can prove it would not be in the best interest of the minor child/ren for one parent to have periods of time when the child/ren lives with or is under*

his/her care and supervision..

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change and both parents should be given physical custody of the child/ren **and**
 - Complete the **Parenting Plan**. (both parents may sign the Parenting Plan, but it is not required). Write **“Exhibit A”** on the bottom of the first page of the Parenting Plan and attach it to the Motion to Modify. **IMPORTANT: The Parenting Plan must be attached to make it a part of the Motion to Modify.** Make an extra copy of the Parenting Plan to attach to the Modification Order.**or**
- Check the third box if you are asking the court to give physical custody of the child/ren to only one parent, **and**
 - Write in the name of the parent who should be given physical custody **and**
 - State why the other parent should NOT be given periods of time when the child/ren lives with or is under his/her care and supervision.
 - If you want the court’s order to give the other parent restricted or conditional time with the child/ren, check the box and write in the parent’s name **and**
 - write in the terms and conditions of the other parent’s time with the child/ren; or check the box to refer to the Parenting Plan you have agreed to.

6. Child Support.

Note: If the percentage of time the child/ren is with each parent is changed, the amount of child support will probably also need to be changed. You will need to complete an Affidavit Verifying Income and a Child Support Worksheet to calculate the amount of child support. A Court Assistance Officer will be able to help you generate these documents if you provide the required information

- If you want or need to change the current amount of child support, check the appropriate box, **and**
- Write in the date of the most recent support order. Consult the court file if you are unsure about the date of the most recent order. *Note: There may be different orders if you have changed either support or custody before.*

Note: If the child support order is in a different case, that case and this case will need to be consolidated so the child support can be modified.

- Fill in the month and year the change in the amount of child support should start,
- write in the name of the parent who will pay child support **and**
- the total monthly amount (the base amount of support plus or minus any adjustments for work-related child care expenses, health insurance premiums and/or the tax dependency).

- Fill in the Base Amount of child support
- If your child support calculation includes adjustments for sharing work-related child care costs, health insurance premiums and/or tax benefits,
- Check the boxes that apply and fill in the amounts.
- If you have more than one minor child, check the box. You will need to have a separate calculation to reflect the changed amount of support as each child is emancipated (no longer eligible for support under Idaho law). Fill in the total amount of child support

from the child support worksheet.

- Attach your Affidavit Verifying Income and Support Worksheet(s) to the Motion, marking each as **Exhibit B**.

Extended Visits. Check the box if the child/ren lives in the home of one parent at least 75% of the time. You can choose either or both of the next two paragraphs of the form. If the child/ren spends more than 25% of the year with each parent (shared physical custody), write “N/A” in the box.

- If you selected the first paragraph, indicate how much the support payment will be reduced by either checking the box for 50% or filling in your own percentage. You will need to notify the Department of Health & Welfare, Child Support Services when this paragraph should take effect.
- If you have more than one child, you can check the box to also select the next paragraph.

WARNING: If you are the parent paying child support (the “obligor”) you should be aware the decree will provide for collection of unpaid child support from your wages and from your real estate or personal property. The decree will also provide that if you move to another state, the child support award (and any spousal maintenance award) can be enforced directly by courts in other states. Additionally, you should be aware that, according to Idaho law, if unpaid child support equals or exceeds the total support owing for ninety (90) days or the sum of \$2,000, whichever is less, you are subject to suspension of any license to practice or engage in any business, occupation or profession, operate a motor vehicle, carry a concealed weapon, or engage in any recreational activity, including hunting or fishing. Further, the State Tax Commission will withhold and set-off any state tax refund to collect any unpaid child support, or unpaid spousal support, and the Idaho State Lottery will likewise withhold and set-off a prize of a lottery prize-winner.

7 Health Insurance.

- Check the first box if there will be no change. **or**
- Check the appropriate box to indicate how health insurance coverage for the child/ren is now being taken care of. If you selected the second paragraph, write in the name of the parent(s) who is now taking care of health insurance.

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***WARNING:** The Order will provide: Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by a parent or the Department of Health and Welfare. A national medical support notice will be sent to the parent’s employer, requiring the employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the Department of Health & Welfare.*

8. Health Care Costs Not Paid by Insurance.

- Check the first box if there will be no change. **or**
- Write in the percentage to be paid by each parent, based on their Guidelines income. Refer to the Child Support Worksheet.

9. Work-Related Child Care Costs. Work-related child care costs are in addition to child support, but can be added to the amount ordered to be paid for child support. If you choose to have work-related child care costs paid as part of the child support payment and the cost of child care changes, the amount each parent will be ordered to pay cannot be changed unless a modification is filed and an order is signed by the judge. **or** You can ask the court to order that each of you pays a percentage of those costs, either directly to the child care provider or as reimbursement to the paying parent.

- Check the first box if there will be no change. **or**
- If you DID figure this cost in your child support calculation, check the second box. **or**
- If you did NOT figure these expenses in your child support calculation, check the third box **and**
 - Fill in the percentages each parent will pay.
- Check the box if both parents will pay the care provider directly.

10. Income Tax Exemption.

- Check the first box if there will be no change. **or**
- Check the box and write in the blank the name of the parent who will claim each child as a dependent on their income tax return(s). Note: The child support calculation must reflect the same designation.

Signatures: Leave the spaces for the State and County blank. Go to an office where there's a Notary. Have the notary fill in the spaces. Sign the Stipulation in front of the Notary and have your signatures notarized.

Exhibits: Complete **Exhibits A** and **B** as instructed above. Mark your Parenting Plan as **Exhibit A** and your Child Support Order from another case or Child Support Affidavit and Worksheet as **Exhibit B**. Make an extra copy of the Parenting Plan for use with the proposed order before attaching (stapling) to the stipulation. Attach (staple) Exhibits to the Stipulation. Then make two copies of the Stipulation with Exhibits. Take the original and both copies to the clerk of the court for filing and conforming.

Continue to follow CAO Instruction 6 – Agreed Modification of Child Custody, Visitation or Support.

REMOVE THESE INSTRUCTIONS BEFORE FILING YOUR STIPULATION TO MODIFY!

(Plaintiff's name)

(Street Address)

(City, State and Zip Code)

(Telephone)

(Defendant's name)

(Street Address)

(City, State and Zip Code)

(Telephone)

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

_____,
Plaintiff,
vs.
_____,
Defendant.

Case No.: _____

STIPULATION TO MODIFY AN ORDER OR
DECREE

Fee Category:

Filing Fee:

Plaintiff and Defendant agree, stipulate and ask the court to enter its order pursuant to Rule 60(c), I.R.C.P., modifying the Order/Decree entered in this matter on _____. As grounds therefore the parties state that there have been substantial and material changes in their circumstances since the date of the last Order/Decree herein.

1. The following child/ren under the age of 18 years, or 19 years and still pursuing a high school education, was/were born to or adopted by the parties:

<u>Name</u>	<u>Date of Birth</u>	<u>Addresses for last 5 years</u> (city and state) (Beginning with most recent)
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_____	_____	_____
_____	_____	_____

Name

Date of Birth

Addresses for last 5 years (city and state)

2. Mother resides at (city, county, state) _____.

Father resides at (city, county, state) _____.

3. **UCCJEA Jurisdiction.** The parents consent and agreed that the Idaho court has exclusive, continuing jurisdiction to determine custody of this/these child/ren in accordance with the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act, Section 32-11-101, et seq..

a. ☐ Neither parent has participated as a party or witness, in any other case involving our child/ren. **or**

☐ I/we have participated as a party or witness in the following case involving our children (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): _____

_____.

b. ☐ Neither parent knows of any other case that could affect our child/ren. **or**

☐ I/we know of the following court case that could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): _____

_____.

c. ☐ Other than the two of us, no one claims custody or visitation rights with our child/ren. **or**

☐ In addition to the parents, the following person/s claim custody or visitation for our child/ren (list names and addresses): _____

_____.

d. ☐ Our child/ren live(s) only with both parents. **or**

☐ If our child/ren lives(s) with someone other than a parent, the name(s) and present address(es) of the person(s) with whom our child/ren live(s) is/are: _____

_____.

4. There have been substantial and material changes in the circumstances of the parties since the date of the last Order/Decree herein. The following changes have occurred

(check all boxes that apply):

- [] The custodial arrangement.
[] The gross annual income of one or both parents.
[] A parent is providing medical insurance.
[] The parent claiming the tax dependency exemption should be changed.
[] (other reason) _____
-

5. Custody. [] No change. **or** [] The court should modify the order entered
(date of last custody order) _____ respecting custody of the minor
child/ren as follows:

Legal Custody. [] No change. **or**

[] Both parties are fit persons to act as parents. It is in the best interest of our
child/ren that we be awarded joint legal custody. **or**

[] It is in the best interest of our child/ren that _____ be
awarded sole legal custody because _____

Physical Custody. [] No change. **or**

[] It is in the best interest of our child/ren that we be awarded joint physical custody
of our child/ren on the terms and according to the Parenting Plan which is attached as **Exhibit**

A. or

[] _____ should be awarded sole physical custody of our
child/ren because _____

[] _____ should spend time with our child/ren

[] as follows: _____

or

[] in accordance with the Parenting Plan which is attached as **Exhibit A**.

6. Child Support.

[] Child support does not need to change. If child support was set in a different case, a copy of the Child Support Order is attached as **Exhibit B**. or

[] This court has jurisdiction to determine child support, Title 32, Chapter 7, Idaho Code.

[] Child support should be paid by _____ in the total amount of \$_____ per month, based on the Idaho Child Support Guidelines, according to the Affidavit Verifying Income and Child Support Worksheet(s) attached as **Exhibit B**. The total amount includes: Base child support in the amount of: \$_____

[] Work-related childcare expenses \$_____

[] Medical, dental, and/or optical insurance premiums allocated in the amount of: \$_____

[] Tax benefits allocated in the amount of: \$_____

Child support payments should begin on the twentieth (20) day of the month after the Modification Order is signed and continue to be paid on the twentieth (20) day of each following month until the child/ren for whom support is being paid reaches the age of eighteen (18). If a child for whom support is being paid continues his/her high school education after reaching the age of eighteen (18) years, child support payments should continue until the child discontinues his/her high school education or reaches the age of nineteen (19) years, whichever is sooner. Payment should be made payable to the Department of Health and Welfare and sent to: **Idaho Child Support Receipting, P.O. Box 70008, Boise, ID 83707-0108.**

[] We have more than one minor child. If this Child Support Order has not been modified, when one child is no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when two children are no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when three children are no longer entitled to support, child support for the remaining child should continue in the total amount of \$_____ per month.

NOTICES

According to Chapter 12, Title 32, Idaho Code, this Child Support Order is immediately enforceable through income withholding. Income withholding shall be enforced by a Withholding Order issued to the paying parent's employer without additional notice to the paying parent. A statewide lien on all real and personal property of the paying parent will arise automatically if child support is past due in an amount equal to the smaller of \$2,000 or 90 days of support, according to Idaho Code §§7-1206 and 45-1901, *et seq.*

The Support Order can also be enforced by license suspension.

[] **Extended Visits:** Our child/ren live/s in the home of one parent at least 75% of the time.

[] When the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row, the amount of base child support should be reduced for that period of time; however, visitation of two overnights or less with the other parent should not eliminate the reduction of base child support during extended visits. The child support reduction for the period of the actual physical custody should be [] 50% **or** [] _____% of the base child support obligation. The reduction should be subtracted from the child support payment due the next month.

[] If the parent paying child support has physical custody of some but not all of the children for a continuous period of fourteen (14) or more overnights in a row, before a reduction is made, the base child support obligation should first be divided by the number of children under eighteen (18) years of age. The reduction for the paying parent should only apply to the base child support thus allocated to the children in that parent's custody.

(Example: Parent has 3 of 4 children for 14 days. \$300/mo. base support payment divided by 4 children = \$75 per child per month divided by 30 days = \$2.50 per day per child x 14 days = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.)

7. Medical Insurance. [] No change. **or**

[] _____ is/are currently providing health insurance for the minor child/ren and should continue to do so, so long as it is reasonably available through that parent's employment. If such insurance becomes unavailable to the parent currently providing insurance, the parent first reasonably able to obtain group health insurance through employment should do so. **or**

[] Neither parent is currently providing health insurance for the child/ren. The parent first reasonably able to obtain group health insurance through employment should do so. **or**

[] The child/ren participate/s in the Children's Health Insurance Program. The parent first reasonably able to obtain group health insurance through employment shall do so.

[] The total child support amount does not include any actual cost paid by either parent for health insurance premiums for the child/ren. That cost, whether being paid now or incurred in the future, should be prorated between the parents in proportion to their Guidelines income. Father should pay _____ % and Mother should pay _____ %. The payment

should be in addition to the base child support award and promptly paid directly between the parents.

Where medical insurance is provided, each parent should be ordered to provide the other with all medical insurance information necessary to obtain health care for the child/ren. Insurance proceeds will be applied first to unpaid medical bills and then to reimburse the paying parent for any prepaid medical costs. Both parents shall sign any needed document that provides continuing health care for our child/ren.

Notice

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

8. Health Care Costs Not Paid by Insurance. [] No change. **or**

[] The actual cost paid by either parent for health care expenses for the child/ren not covered or paid in full by insurance, including, but not limited to orthodontic, optical and dental, should be prorated between the parents. Father should pay _____ % and Mother should pay _____ %. These payments should be in addition to the base child support award and be promptly paid directly between the parents.

Any health care for the child/ren (whether denominated as psychiatric, psychological, special education, addiction treatment, or counseling in any form, and including regular medical or dental care), whether or not covered by insurance, that would result in an actual out-of-pocket expense of over \$500 to the parent who did not incur or consent to the expense, must be approved in advance, in writing, by both parents or by prior court order. (**Note:** *The court may consider whether consent for out-of-pocket expenses in excess of \$500 was unreasonably requested or withheld and order payment of the incurred expense in some percentage other than the Guidelines Income.*)

9. Work-related Child Care Costs. [] No change. **or**

[] The total child support amount does not include work-related child care costs. The actual net out-of-pocket costs for work-related child care should be paid _____% by Father and _____% by Mother.

[] Payment should be made directly to the child care provider by both parents according to arrangements made with the care provider. If one parent pays the child care

provider any portion of the other parent's share of costs, the non-paying parent should reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and receipt for the payment.

10. Income Tax Exemption. [] No change. **or**

[] The state and federal dependency tax exemption(s) for the parties' minor child/ren should be assigned as follows: _____

_____.

The parent not receiving the exemption(s) should sign the required Internal Revenue Service form(s) to release the claim to the exemption(s).

Verification: We each swear to have read this Stipulation for Modification and state all facts included are true.

Wherefore, we ask the Court to enter the orders requested above.

Date: _____, 20 ____.

Father's signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public for Idaho

Residing at: _____

My Commission expires: _____

Date: _____, 20 ____.

Mother's signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public for Idaho

Residing at: _____

My Commission expires: _____

REMOVE THIS PAGE AND

If you are using it, Attach (staple) and Mark it “EXHIBIT A”:

PARENTING PLAN

**If child support was set in another case, Attach (staple) the support Order and Mark it
“EXHIBIT B”**

If you are modifying support, Attach (staple) and Mark as “EXHIBIT B”:

**AFFIDAVIT VERIFYING INCOME
and
CHILD SUPPORT WORKSHEET(s)**